

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KRZYSZTOF F. WOLINSKI,

Plaintiff,

v.

ABDULBASET ABDULGADER, et al.,

Defendants.

No. 2:21-cv-02078-DJC-CKD P

ORDER

Plaintiff has filed a motion for clarification and sanctions which the court construes as a request for entry of default judgment pursuant to Fed. R. Civ. P. 55(a). ECF No. 42. A review of the docket indicates that the court directed the first amended complaint to be served on defendants Abdulgader and Williams via electronic service of process on May 16, 2023. ECF No. 35. As explained in the order directing service, the California Department of Corrections and Rehabilitation had 40 days to file a notice with the court indicating whether defendants were willing to waive personal service. See ECF No. 35 at 2. On June 12, 2023, the required Notice of Intent to Waive Service was filed by defendants Abdulgader and Williams. ECF No. 40. The waiver of service was executed and filed by defendants on July 10, 2023. ECF No. 43. “A defendant who timely waives service need not serve an answer to the complaint until 60 days after the waiver of service of process was sent...” which is deemed the date the Notice of E-Service Waiver is filed. ECF No. 35 at 2-3. Because 60 days from the date of defendants’ Notice

1 of Intent to Waive Service has not elapsed, a default judgment is not warranted. Therefore,
2 plaintiff's motion is premature and will be denied.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. Plaintiff's motion for entry of default (ECF No. 42) is denied.

5 2. The Clerk of Court is directed to send plaintiff a copy of the docket demonstrating
6 CDCR's compliance with the order directing service as a one-time courtesy only.

7 Dated: July 12, 2023



8 CAROLYN K. DELANEY

9 UNITED STATES MAGISTRATE JUDGE

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